

Via ECF

The Honorable Arun Subramanian
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl St., Courtroom 15A
New York, NY 10007

January 27, 2025

Re: *United States et al. v. Live Nation Entertainment, Inc., et al.*, No. 1:24-cv-3973-AS

Dear Judge Subramanian:

Plaintiffs seek the Court's leave to file under seal its Supplemental Letter and to file a redacted version of the same on the public docket for the reasons stated below. Contemporaneous with the filing of this letter-motion, and in accordance with Paragraph 11(C)(iii) of the Court's *Individual Practices* and Paragraph 9 of the Amended Protective Order, ECF No. 347, Plaintiffs are (1) publicly filing on ECF a copy of the Supplemental Letter with proposed redactions and (2) filing under seal on ECF an unredacted copy of the Supplemental Letter with proposed redactions highlighted.

Plaintiffs Seek Provisional Redaction of the Supplemental Letter to Comply with the Amended Protective Order and the Court's *Individual Practices*

Plaintiffs request provisional redaction of the Supplemental Letter and Exhibits because they contain information that Defendants and non-party AEG have designated as Confidential or Highly Confidential. *See* Amended Protective Order ¶ 9; *Individual Practices* ¶ 11(C)(iii). In particular, Exhibits A and C attached to the Supplemental Letter contain information that Defendants identified as Confidential or Highly Confidential, and Exhibit B contains information that AEG has designated as Confidential.

Plaintiffs have met and conferred with both Defendants and AEG "to narrow the scope of the request" for redaction or sealing. *Individual Practices* ¶ 11(C)(i); *accord* Amended Protective Order ¶ 9 ("The parties will use their best efforts to minimize such sealing."). Such redactions "must be narrowly tailored to serve whatever purpose justifies the redaction or sealing and must be otherwise consistent with the presumption in favor of public access to judicial documents." *Individual Practices* ¶ 11(B).

Plaintiffs requested that Defendants confirm what specific portions of Exhibits A and C were designated as Confidential or Highly Confidential, and Defendants did so. Plaintiffs also requested that AEG identify what specific information was Confidential in Exhibit B. AEG confirmed that it continues to designate the entirety of Exhibit B as Confidential, and it requested that Exhibit B be kept entirely under seal. Plaintiffs notified Defendants and non-party AEG that they must file, within three business days [of filing], a letter explaining the need to seal or redact the document." *Individual Practices* ¶ 11(C)(i).

Defendants and AEG Must Overcome the Presumption of Public Access to Justify Any Continuing Redaction of the Supplemental Letter Exhibits

Plaintiffs request provisional redaction of the three exhibits attached to the Supplemental Letter and accompanying quotations of those exhibits in the Supplemental Letter solely because of Defendants' and AEG's continuing designation of those exhibits as Confidential or Highly Confidential.

“The burden of demonstrating that a document submitted to a court should be sealed rests on the party seeking such action,” *DiRussa v. Dean Witter Reynolds Inc.*, 121 F.3d 818, 826 (2d Cir. 1997), and sealing “should not be done without a compelling reason,” *City of Hartford v. Chase*, 942 F.2d 130, 135 (2d Cir. 1991). Here, the burden accordingly rests with Defendants and AEG.

“[T]he mere filing of a paper or document with the court is insufficient to render that paper a judicial document subject to the right of public access.” *United States v. Amodeo*, 44 F.3d 141, 145 (2d Cir. 1995). Rather, “the item filed must be relevant to the performance of the judicial function and useful in the judicial process in order for it to be designated a judicial document.” *Id.* “[T]he weight to be given the presumption of access must be governed by the role of the material at issue in the exercise of Article III judicial power and the resultant value of such information to those monitoring the federal courts.” *United States v. Amodeo*, 71 F.3d 1044, 1049 (2d Cir. 1995) (“*Amodeo II*”). “[A]fter determining the weight of the presumption of access, the court must ‘balance competing considerations against it.’” *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006) (quoting *Amodeo II*, 71 F.3d at 1050).

If the producing parties move to redact the Exhibits attached to the Supplemental Letter, and the accompanying quotations of those exhibits in the Supplemental Letter, then Plaintiffs request, pursuant to *Individual Practices* ¶ 11(C)(i), that Defendants and AEG be required to file a letter-motion to seal within three business days “explaining the need to seal or redact the document.” Plaintiffs also respectfully request an opportunity to respond to any letter-motion to seal filed by Defendants or AEG. Should Plaintiffs oppose proposed redactions by AEG or Defendants, Plaintiffs will file a response within 3 business days.

Respectfully submitted,

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